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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

BROADCAST MUSIC, INC.; UNIVERSAL  
- SONGS OF POLYGRAM  
INTERNATIONAL, INC.; WARNER-  
TAMERLANE PUBLISHING CORP.; JEFF  
STEVENS MUSIC; RANCHO BELITA  
MUSIC; SONY/ATV SONGS LLC d/b/a  
SONY/ATV TREE PUBLISHING;  
SHOWBILLY MUSIC; SONGS OF  
UNIVERSAL, INC.; EMI VIRGIN SONGS,  
INC. d/b/a EMI LONGITUDE MUSIC;  
CALEDONIA PRODUCTIONS, INC. d/b/a  
ESSENTIAL MUSIC; HYDROPONIC  
MUSIC; EMI BLACKWOOD MUSIC,  
INC.; HINDER MUSIC CO., A DIVISION  
OF HINDER PUBLISHING LLC;  
MOEBETOBLAME MUSIC; PAUL  
SIMON MUSIC; LION AIRE  
PUBLISHING; YOUNG MONEY  
PUBLISHING, INC.; 3RING CIRCUS  
MUSIC, LLC d/b/a SOULRIDE MUSIC;  
ROOT 49 MUSIC LLC d/b/a ROOT 49  
MUSIC; CACKALACKI TWANG; HOME

Civil No.: 12-616

**COMPLAINT**

**DEMAND FOR JURY TRIAL**

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GROWN MUSIC INC. d/b/a  
WEIMERHOUND PUBLISHING;  
AVERAGE JOES ENTERTAINMENT  
GROUP INC. d/b/a AVERAGE ZJS MUSIC  
PUBLISHING; INDIANA ANGEL MUSIC,

Plaintiffs,

v.

K&K CORPORATION d/b/a COYOTE'S  
BAR & GRILL; WANDA HEMENWAY  
and MARK HEMENWAY, each  
individually,

Defendants.

Plaintiffs, by their attorneys, for their Complaint against Defendants, allege as follows  
(on knowledge as to Plaintiffs; otherwise on information and belief):

### **JURISDICTION AND VENUE**

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 et seq. (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

### **THE PARTIES**

3. Plaintiff, Broadcast Music, Inc. ("BMI"), is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 7.5 million copyrighted musical compositions (the "BMI repertoire"), including those which are alleged herein to have been infringed.

4. The other Plaintiffs are the owners of the copyrights in the musical compositions which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Plaintiff Universal – Songs of Polygram International, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

6. Plaintiff Warner-Tamerlane Publishing Corp. is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

7. Plaintiff Jeff Stevens Music is a sole proprietorship owned by Jeffrey David Stevens. This Plaintiff is a copyright owner of at least one of the songs in this matter.

8. Plaintiff Rancho Belita Music is a sole proprietorship owned by Stephen Mark Bogard. This Plaintiff is a copyright owner of at least one of the songs in this matter.

9. Plaintiff Sony/ATV Songs LLC is a limited liability company d/b/a Sony/ATV Tree Publishing. This Plaintiff is a copyright owner of at least one of the songs in this matter.

10. Plaintiff Showbilly Music is a sole proprietorship owned by Ronnie Gene Dunn. This Plaintiff is a copyright owner of at least one of the songs in this matter.

11. Plaintiff Songs of Universal, Inc. is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

12. Plaintiff EMI Virgin Songs, Inc. is a corporation d/b/a EMI Longitude Music. This Plaintiff is a copyright owner of at least one of the songs in this matter.

13. Plaintiff Caledonia Productions, Inc. is a corporation d/b/a Essential Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

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14. Plaintiff Hydroponic Music is a partnership owned by Nicholas L. Hexum, Chaz Sexton, Timothy J. Mahoney, Douglas Martinez and Aaron Wills. This Plaintiff is the copyright owner of at least one of the songs in this matter.

15. Plaintiff EMI Blackwood Music, Inc. is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

16. Plaintiff Hinder Music Co., a Division of Hinder Publishing LLC is a limited liability company. This Plaintiff is a copyright owner of at least one of the songs in this matter.

17. Plaintiff Moebetoblame Music is a partnership owned by Michael Balzary, John Anthony Frusciante, Anthony Kiedis and Chad Gaylord Smith. This Plaintiff is the copyright owner of at least one of the songs in this matter.

18. Plaintiff Paul Simon Music is a sole proprietorship owned by Paul Simon. This Plaintiff is the copyright owner of at least one of the songs in this matter.

19. Plaintiff Lion Aire Publishing is a sole proprietorship owned by Kevin Winston Rudolf. This Plaintiff is a copyright owner of at least one of the songs in this matter.

20. Plaintiff Young Money Publishing, Inc. is a corporation. This Plaintiff is a copyright owner of at least one of the songs in this matter.

21. Plaintiff 3Ring Circus Music, LLC is a limited liability company d/b/a Soulride Music. This Plaintiff is a copyright owner of at least one of the songs in this matter.

22. Plaintiff Root 49 Music LLC is a limited liability company d/b/a Root 49 Music. This Plaintiff is a copyright owner of at least one of the songs in this matter.

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23. Plaintiff Cackalacki Twang is a sole proprietorship owned by Bridgette Tatum Tweed. This Plaintiff is a copyright owner of at least one of the songs in this matter.

24. Plaintiff Home Grown Music Inc. is a corporation d/b/a Weimerhound Publishing. This Plaintiff is the copyright owner of at least one of the songs in this matter.

25. Plaintiff Average Joes Entertainment Group Inc. is a corporation d/b/a Average Zjs Music Publishing. This Plaintiff is a copyright owner of at least one of the songs in this matter.

26. Plaintiff Indiana Angel Music is a sole proprietorship owned by Brantley Keith Gilbert. This Plaintiff is a copyright owner of at least one of the songs in this matter.

27. Defendant K&K Corporation is a corporation organized and existing under the laws of the state of Oregon, which operates, maintains and controls an establishment known as Coyote's Bar & Grill, located at 5301 West Baseline Road, Hillsboro, Oregon 97123-6447, in this district (the "Establishment").

28. In connection with the operation of this business, Defendant K&K Corporation publicly performs musical compositions and/or causes musical compositions to be publicly performed.

29. Defendant K&K Corporation has a direct financial interest in the Establishment.

30. Defendant Wanda Hemenway is an officer of Defendant K&K Corporation with primary responsibility for the operation and management of that corporation and the Establishment.

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31. Defendant Wanda Hemenway has the right and ability to supervise the activities of Defendant K&K Corporation and a direct financial interest in that corporation and the Establishment.

32. Defendant Mark Hemenway is an officer of Defendant K&K Corporation with primary responsibility for the operation and management of that corporation and the Establishment.

33. Defendant Mark Hemenway has the right and ability to supervise the activities of Defendant K&K Corporation and a direct financial interest in that corporation and the Establishment.

### **CLAIMS OF COPYRIGHT INFRINGEMENT**

34. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 33.

35. Plaintiffs allege thirteen (13) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

36. The Schedule attached hereto as Exhibit 1 and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the thirteen (13) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information: Line 1 providing the claim number; Line 2 listing the title of the musical

composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the Registration number(s); Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement occurred.

37. For each of the musical compositions identified on the Schedule, the person(s) named on Line 3 was the creator of the work (all references to Lines are lines on the Schedule).

38. For each work, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

39. For each work, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work, on the date(s) listed on Line 7, the Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

40. For each work, on the date(s) listed on Line 7, Defendants performed and/or caused the musical composition identified on Line 2 to be publicly performed at the Establishment without a license or permission to do so. Thus, Defendants have committed copyright infringement.

41. The specific acts of copyright infringement alleged, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable

damage. By continuing to provide unauthorized public performances of works in the BMI repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

- (I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;
- (II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);
- (III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and
- (IV) That Plaintiffs have such other and further relief as is just and equitable.

DATED: April 9, 2012

BULLIVANT HOUSER BAILEY PC

By /s/ Laura Caldera Taylor

**Loren D. Podwill**

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**Laura Caldera Taylor**

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